

FPPC *Bulletin*



September 2002

Fair Political Practices Commission

Volume 28, No. 3

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Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

***Bulletin* Moves to Web, E-mail Distribution**

The *FPPC Bulletin*, which keeps Californians informed of the latest Commission news and activities, will soon be offered to readers only via the FPPC web site and our e-mail subscription list.

Printed copies of the *Bulletin* no longer will be mailed due to the Commission's increasingly tight budget situation and a plan to concentrate staff resources on web-based publications.

As always, there will be no charge for the *Bulletin*. Readers can download and print their own copies of the newsletter from the Commission's web site, <http://www.fppc.ca.gov>, and share the publication by e-mail.

The electronic format should permit more timely publication and distribution of FPPC news and developments. Obviously, and as some readers of the electronic version already have pointed out, it also saves trees.

New issues of the *Bulletin* will be announced quarterly in the "What's New at FPPC" section of our web site. There, a link will allow readers to read and download the publication in the easy-to-use Adobe Acrobat Reader software (.pdf) format. Most computers already have this free software installed. But if you don't have the reader program, or have an older version of it, you can get the latest version at <http://www.adobe.com/products/acrobat/readstep.html>.

While we are encouraging web access to the *Bulletin*, readers also can subscribe to the FPPC's e-mail *Bulletin* mailing list by sending an e-mail request to jmatthews@fppc.ca.gov. At the present time, this is a manually compiled e-mail list so please be patient during our processing and e-mailing routine.

Many readers already receive the *Bulletin* via our web site or by e-mail, and comments on this system generally have been favorable.

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**California
Fair Political
Practices Commission**

Commissioners

Karen Getman, Chairman
Sheridan Downey III
Thomas S. Knox
Gordana Swanson
Vacancy

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

...FPPC *Bulletin* Moves to Web

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We realize that all *Bulletin* readers may not have access to the Internet. But a number of public libraries in California do offer access. If accessing the *Bulletin* through the web or by e-mail is a hardship for you, please write or call FPPC Publications Editor Jon Matthews to discuss alternate arrangements (telephone: 916-323-2937; mail: FPPC, 428 J Street, Suite 620, Sacramento, CA 95814).

Beginning with this issue, the *Bulletin* is being redesigned in a simpler, more web-friendly format intended to be easier to read on a computer screen. This format is modeled after the *Record* newsletter of the Federal Election Commission. For example, longer articles always will continue on the following page rather than elsewhere in the newsletter. Other changes include a new type face, smaller Acrobat file size, and a new headline style. Further content changes are being planned.

Please feel free to send your comments and suggestions to the FPPC publications editor at jmatthews@fppc.ca.gov.

— Jon Matthews, FPPC publications editor

Future Meeting Dates

The Fair Political Practices Commission is currently scheduled to meet on the following dates the remainder of this year:

Friday, October 4

Friday, December 13

Meetings generally begin at 9:30 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC web site regularly as starting dates and times can change.

Meeting Summaries

August Summary

At its August meeting, the Fair Political Practices Commission adopted a formal Commission opinion and discussed and adopted several regulations as part of its implementation of Proposition 34.

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The FPPC *Bulletin* is published by the Fair Political Practices Commission

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Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, e-mail your request to jmatthews@fppc.ca.gov

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Adoption of Regulations

The Commission voted to adopt the following regulations with specified revisions:

18531.7 – Further defines payments for member communications as set forth in section 85312.
[Please note: this regulation was not made effective pending further reconsideration at the Commission's October meeting.]

18535 – Clarifies section 85305, limiting contributions between state candidates. The regulation provides that the applicable limit is \$3,000 across-the-board, as opposed to \$3,000, \$5,000 and \$20,000 depending on the office of the recipient.

18544 – Describes the cost of living adjustments (COLA) formula for campaign contribution and voluntary expenditure limits required by Proposition 34.

Additionally, due to recent legislative changes in the Political Reform Act, the Commission adopted conforming, non-substantive amendments to several regulations. Several technical clean-up amendments were also included which would eliminate outdated references or make similar conforming changes. These modified regulations are **18110, 18401, 18404.1, 18451, 18540, 18705.4, and 18997.**

Adoption of Opinion: In re Hanko

The Commission adopted an opinion, with minor revisions, holding that payments to a hospital district director from her employer will be attributed to a purchaser of her employer's products where the public official: 1) has been employed to purposefully direct sales or marketing activity toward the purchaser; 2) there is direct contact between the public official and the purchaser intended by the public official to generate sales or business; and 3) there is a direct relationship between the purchasing activity of the purchaser and the amount of the incentive compensation received by the public official. Where these requirements are met, both the purchaser and the employer are considered sources of income to the official for purposes of Government Code sections 87100 and 87103.

Enforcement Actions

Campaign Reporting Violations

Alliance To Revitalize California, a Committee for Propositions 200, 201 and 202; Virginia Boyd and Thomas Proulx, FPPC No. 99/225. Alliance To Revitalize California, a Committee for Propositions 200, 201 and 202 (now known as California Technology Alliance) was a state ballot measure committee primarily formed to support tort reform initiatives in the March 26, 1996, primary election. Virginia Boyd was the committee's treasurer, and Thomas Proulx verified the committee's campaign statements on behalf of the state measure proponents. Respondents failed to report sub-vendor payments, totaling approximately \$5 million, on two pre-election campaign statements and a semi-annual campaign statement, in violation of Government Code sections 84211(j)(6) and 84303 (12 counts). \$18,000 fine.

Dick Frank, Re-Elect Dick Frank County Assessor and Donna Frank, FPPC No. 01/404. Dick Frank was a successful candidate for San Luis Obispo County Assessor. Donna Frank was the treasurer of Dick Frank's controlled campaign committee. Respondents failed to timely file a second pre-election campaign statement, in violation of Government Code section 84200.7(a) (one count), and three late contribution reports, in violation of Government Code section 84203 (three counts). \$3,000 fine.

Late Contribution Report Violations - Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

LA Arena Company LLC, FPPC No. 2002-15. LA Arena Company LLC of Mill Valley, failed to timely disclose late contributions totaling \$12,390 (four counts). \$1,858.50 fine.

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Mendocino Hotel Associates & Maureen O'Connor, FPPC No. 2002-443. Mendocino Hotel Associates & Maureen O'Connor of La Jolla, failed to timely disclose late contributions totaling \$51,000 (three counts). \$6,000 fine.

Dale Shipley, FPPC No. 2002-449. Dale Shipley of Morgan Hill, failed to timely disclose a late contribution totaling \$10,000 (one count). \$1,500 fine.

Major Donor Report Violations - Streamlined Program

Failure to Timely File Major Donor Campaign Statement - Streamlined Procedure. The following persons and entities have entered into stipulations for failure to file a major donor campaign statement due during calendar year 2000, in violation of Government Code section 84200:

Rich Development Company, FPPC No. 2002-442. Rich Development Company of San Pedro, made contributions totaling \$24,500 (one count). \$600 fine.

Statement of Economic Interests

Daniel Wentland, FPPC Nos. 97/220 and 99/76. Daniel Wentland, a member of the Paradise Town Council, failed to fully disclose all of his economic interests in an amendment to an assuming office Statement of Economic Interests, in violation of Government Code section 87202 (one count). \$2,000 fine.

Statement of Economic Interests-Expedited

George Bergner, FPPC No. 01/427. George Bergner, a director of the Mendocino County Resource Conservation District, failed to timely file an assuming office Statement of Economic Interests, in violation of Government Code section 87300 (one count). \$200 fine.

Jane Lowenthal, FPPC No. 01/464. Jane Lowenthal, a member of the California Library Services Board, failed to timely file a year 2000 annual Statement of Economic Interests, in violation of Government Code section 87300 (one count). \$200 fine.

July Summary

At its July meeting, the Fair Political Practices Commission discussed a response to a request for a formal opinion and considered several regulations as part of its effort to implement Proposition 34.

Adoption of Regulations

The Commission voted to adopt the following regulation with specified revisions:

18450.1 – Further defines advertisements pursuant to section 84501.

Regulations up for Discussion

18225.7 – (amended) Defines expenditures “made at the behest of” a candidate. Proposed amendment will further define conduct that constitutes coordination.

18450 – Except as provided otherwise in the regulations, the advertisement disclosure requirements apply only to primarily formed committees.

18450.2 – Further defines “cumulative contributions.”

18539.2 – (amended) Requires the disclosure of communications that clearly identify a state candidate. Proposed amendment will require disclosure of the type of communication made, such as television or radio broadcasts, print advertisements, or literature and mailings.

Opinion Request: [In re Hanko](#)

This item pertained to a request by the Peninsula Health Care District, on behalf of board member Terilyn Hanko, regarding Commission staff's conclusion that certain incentive compensation payments she received during the course of her employment must be attributed to the employer's customer for purposes of the disqualification provisions of the Act. The Commission requested further analysis after consideration of this opinion request at its June 7, 2002, meeting. The Com-

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mission voted 3-1 to adopt a formal opinion concluding that payments to Director Hanko from her employer will be attributed to a purchaser of her employer's products because 1) she was employed to purposefully direct marketing activity toward the purchaser; 2) there is direct contact between Hanko and the purchaser; and 3) there is a direct relationship between the purchasing activity of the purchaser and the amount of incentive compensation received by Hanko. A draft opinion will be presented for adoption in August.

Enforcement Actions

Campaign Reporting Violations

Citizens for an Educated America, No on 227 and David Gould, FPPC No. 99/632. Citizens for an Educated America, No on 227, was a ballot measure committee primarily formed to oppose the passage of Proposition 227 in the June 2, 1998, primary election. David Gould was the committee's treasurer. Respondents failed to report accrued expenses totaling \$131,407 on a pre-election campaign statement, in violation of Government Code section 84211(k) (one count), and failed to report payments totaling approximately \$1.3 million made to sub-vendors on a post-election semi-annual campaign statement, in violation of Government Code section 84303 (three counts). \$8,000 fine.

Al Snook and Snook for Mayor, Friends of Al "Big Al," FPPC No. 98/618. Al Snook was a candidate for mayor of Garden Grove in the November 3, 1998, municipal general election. Respondents failed to maintain detailed accounts, records, bills and receipts that were necessary to prepare three campaign statements, in violation of Government Code section 84104 (three counts). \$4,500 fine.

David G. Kelley, Kelley Assembly Campaign Committee 2002, and James W. Trimble, FPPC No. 02/082. David Kelley is a member of the California State Assembly representing the 80th Assembly District in Imperial and Riverside counties. James W. Trimble is the treasurer of Kelley's controlled committee. Respondents failed to report payments totaling approximately \$214,000 made

to sub-vendors on four campaign statements, in violation of Government Code section 84303 (one count). \$1,500 fine.

Late Contribution Report Violations - Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

Steve Beneto Jr. and Beneto, Inc., FPPC No. 2002-121. Steve Beneto Jr. and Beneto, Inc., of Sacramento failed to timely disclose a late contribution totaling \$15,000 (one count). \$2,000 fine.

Hanson Aggregates Mid-Pacific, FPPC No. 2002-220. Hanson Aggregates Mid-Pacific, of San Ramon failed to timely disclose late contributions totaling \$79,500 (four counts). \$8,000 fine.

Expresstouch Inc., FPPC No. 2002-325. Expresstouch Inc., of Hayward failed to timely disclose a late contribution totaling \$35,000 (one count). \$2,000 fine.

Vali Cooper & Associates, Inc., FPPC No. 2002-326. Vali Cooper & Associates, Inc., of Pt. Richmond failed to timely disclose a late contribution totaling \$25,000 (one count). \$2,000 fine.

Statement of Economic Interests

David Ianacone, FPPC No. 01/0732. David Ianacone, a member of the Diversion Evaluation Committee of the Medical Board of California, Department of Consumer Affairs, failed to timely file an assuming office statement of economic interests, and failed to properly disclose his reportable investment interests, in violation of Government Code section 87300 (two counts). \$1,000 fine.

Statement of Economic Interests-Expedited

Patricia Moran, FPPC No. 01/274. Patricia Moran, a member of the Laytonville Municipal

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Advisory Council, failed to timely file a 2000 statement of economic interests, in violation of Government Code section 87300 (one count). \$200 fine.

June Summary

At its June meeting, the Fair Political Practices Commission discussed a response to an opinion request by Peninsula Health Care District board member Terilyn Hanko. The Commission also discussed several regulations as part of its conflict of interest improvement project and its implementation of Proposition 34.

Adoption of Regulations

The Commission voted to adopt the following regulations with specified revisions:

18707.4 (amended) – Expands the public generally exception to the conflict-of-interest rules to include members of boards and commissions who are appointed to represent a particular economic interest.

Regulations up for Discussion

18451 (amended) – Describes the information required on CalPERS Board Member election campaign statements.

18452 (amended) – Provides that campaign statements for CalPERS Board Member elections capture campaign activity in connection with run-off elections.

18544 – Describes the cost of living adjustments (COLA) formula for campaign contribution and voluntary expenditure limits required by Proposition 34.

18545 – Defines the contribution and voluntary expenditure limits imposed by the COLA formula for the period from January 1, 2003 through December 31, 2004.

18572.2 – Further defines the prohibition on the acceptance of contributions from lobbyists by

elected state officers and candidates for elective state offices. The Commission failed to adopt the regulation and an alternative version, both on a 2-2 tie.

Additionally, due to recent legislative changes in the Political Reform Act, staff presented for pre-notice discussion conforming, non-substantive amendments to several regulations. Several technical clean-up amendments were also included which would eliminate outdated references or make similar conforming changes. The regulations discussed included **18110**, **18401**, **18404.1**, **18540**, **18705.4**, and **18997**.

Opinion Request

This request was made by the Peninsula Health Care District, on behalf of board member Terilyn Hanko, regarding certain bonus payments she received during the course of her employment. The issue was whether the bonus payments made by the public official's employer, which are triggered by purchases made by a customer of the employer, are attributable to the customer, making both the customer and the employer potentially disqualifying sources of income to the official. The Commission directed the staff to analyze several additional factors, including attribution, salary vs. bonus or commission, what constitutes a commission, a public official's knowledge of the source of income, and direct contact vs. no contact or indirect contact, for further discussion at the July meeting.

Approval of Forms and Manuals

2002 Campaign Manual Addendum - The addendum summarizes changes made to the Political Reform Act and Commission regulations since publication of the manuals.

Enforcement Actions

Default Judgment and Order

Signature Properties, Inc., Motion to Vacate Default Decision, FPPC No. 01/386. Signature Properties, Inc., is a corporation in the home building industry, headquartered in Pleasanton.

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During the May meeting, the Commission entered a default judgment against Signature Properties, Inc., in the amount of \$14,000 for failure to timely file major donor campaign statements, in violation of section 84200(b) (two counts); failure to file a late contribution report, in violation of section 84203(b) (one count); and failure to timely file a major donor statement electronically, in violation of section 84605(a) (one count). Signature Properties asked the Commission to vacate the default judgment issued in the May meeting. The Commission denied the motion to vacate.

Lobbying

Reginald Fair and R. Fair and Associates, FPPC No. 00/735. Fair, a registered lobbyist, and R. Fair and Associates, a registered lobbying firm (both of Sacramento), failed to timely file 11 quarterly lobbying reports, in violation of Government Code section 86117 (11 counts), and failed to maintain detailed accounts, records, bills and receipts that are necessary to comply with the lobbying reporting provisions of the Political Reform Act, in violation of section 86110 (one count). \$14,000 fine (12 counts).

Statement of Economic Interests

Jan Wasson-Smith, FPPC No. 00/380. Wasson-Smith, the general manager of the Anderson Valley Community Services District in Mendocino County, failed to timely file 1998 and 1999 statements of economic interests, in violation of Government Code section 87300 (two counts). \$2,000 fine.

Mike Cross, FPPC No. 01/381. Cross, a governing board member of the Siskiyou County Lakeview Cemetery District, failed to timely file 1999 and 2000 statements of economic interests, in violation of Government Code section 87300 (two counts). \$600 fine.

Late Contribution Report Violations - Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following per-

sons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

Peter & Judith Wolken, FPPC No. 2002-324. Peter & Judith Wolken of Los Altos Hills failed to timely disclose a late contribution totaling \$26,690 (one count). \$2,000 fine.

National Society of Professional Engineers, FPPC No. 2002-327. National Society of Professional Engineers of Alexandria, Va., failed to timely disclose a late contribution totaling \$20,000 (one count). \$2,000 fine.

May Summary

At its May meeting, the Fair Political Practices Commission discussed and adopted several regulations further implementing Proposition 34.

Adoption of Regulations

The Commission voted to adopt the following regulations with specified revisions:

18572 – Further defines section 85702, prohibiting certain campaign contributions from lobbyists to those the lobbyist is registered to lobby.

18239 (amended) – Definition of lobbyist.

18615 (amended) – Accounting by lobbyist employers and persons spending \$5,000 or more to influence legislative or administrative action.

18616 (amended) – Reporting by lobbyist employers and persons spending \$5,000 or more to influence legislative or administrative action.

18402 (amended) – Committee names used for advertisement disclosure apply only to committees primarily formed to support or oppose a ballot measure.

18450.3 – The name identification requirements of section 84504 shall apply only to committees primarily formed to support or oppose a ballot measure.

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18450.4 – Describes the exact content of advertisement disclosure statements.

18450.5 – Advertisement disclosure statements must be amended when a new person qualifies as a disclosable contributor or when the committee's name changes.

Regulations up for Discussion

18450 – Except as provided otherwise in the regulations, the advertisement disclosure requirements apply only to primarily formed committees.

18450.1 – Further defines advertisements pursuant to section 84501.

18450.2 – Further defines “cumulative contributions.”

Proposition 34 Update

The Commission reviewed minor reporting issues raised by the first implementation of Proposition 34 in the March primary elections. The Commission directed staff to draft amendments to regulations 18401, required record keeping for chapter 4 (sections 84100, et seq.) and 18538.2, reporting payments pursuant to section 85310, and to bring back for discussion later this year regulation 18428, disclosure of affiliated entities by recipient committees. Staff was directed to study issues raised by regulation 18313, forms and manuals, and its applicability to online forms for consideration next year. The Commission also directed staff to study issues relating to the filing of late contribution reports on weekends.

Enforcement Actions

Adoption of ALJ Decision

Manson Wong, FPPC No. 97/655. The Commission issued an accusation alleging that Wong, a San Francisco businessman, made eight campaign contributions in the names of other persons, in violation of Government Code section 84301 (eight counts). Following a hear-

ing in Oakland, Administrative Law Judge Mary-Margaret Anderson issued a proposed decision finding that Wong committed the eight violations and imposed a maximum administrative penalty of \$16,000. The Enforcement Division requested that the Commission accept the proposed decision in its entirety. Wong opposed this request. The Commission heard arguments on the proposed decision and adopted the administrative law judge's decision. \$16,000 fine.

Default Judgment and Order

Signature Properties, Inc., FPPC No. 01/386. Signature Properties, Inc. is a corporation in the home building industry headquartered in Pleasanton. In the year 2000 Signature Properties, Inc., made political contributions totaling \$118,251 and failed to timely report any of these contributions. Respondents failed to timely file major donor campaign statements, in violation of section 84200(b) (two counts); failed to file a late contribution report, in violation of section 84203 (b) (one count) and failed to timely file a major donor statement electronically, in violation of section 84605(a) (one count). \$14,000 default order (four counts).

Lobbying

The Merit Shop Roundtable, FPPC No. 01/717. The Merit Shop Roundtable, a membership organization headquartered in Sacramento, failed to file a quarterly lobbying report, in violation of Government Code section 86116 (one count). \$1,200 fine.

Statement of Economic Interests-Expedited

Suzanne Cunningham, FPPC No. 01/767. Suzanne Cunningham, a real estate investment consultant for CalPERS, failed to timely file a year 2000 statement of economic interests, in violation of Government Code section 87300 (one count). \$300 fine.

Victor MacFarlane, FPPC No. 01/747. Victor MacFarlane, a real estate investment consultant for CalPERS, failed to timely file a year 2000 statement of economic interests, in violation of Government Code section 87300 (one count).

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\$300 fine.

Late Contribution Report Violations - Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

Robert Mondavi Winery Corporation, FPPC No. 2002-13. Robert Mondavi Winery Corporation of Oakville failed to timely disclose late contributions totaling \$16,000 (four counts). \$2,400 fine.

Los Angeles County Council on Political Education, FPPC No. 2002-17. Los Angeles County Council on Political Education failed to timely disclose a late contribution totaling \$10,000 (one count). \$1,500 fine.

AECOM, FPPC No. 2002-33. AECOM Technology Corporation of Los Angeles failed to timely disclose a late contribution totaling \$15,000 (one count). \$2,000 fine.

Committee to Elect Marco Firebaugh, FPPC No. 2002-93. Committee to Elect Marco Firebaugh of Burbank failed to timely disclose a late contribution totaling \$12,000 (one count). \$1,800 fine.

Civil Litigation Enforcement Action

The Fair Political Practices Commission reached a \$50,000 civil settlement with the **Republican National Committee – California Account, and its treasurer, Jay Banning**, for failing to disclose \$200,000 in late contributions made in connection with the Nov. 7, 2000, general election. The RNC – California Account is a campaign committee sponsored by the Republican National Committee to support Republican candidates in California elections. A civil lawsuit was filed by the FPPC in Sacramento Superior Court on Wednesday, Aug. 14, 2002. The final judgment, based on a stipulation signed by the

FPPC and Banning, was approved Aug. 20, 2002, by Superior Court Judge Joe S. Gray. According to the complaint, the RNC – California Account made \$50,000 in late contributions on Nov. 1, 2000, to each of four state legislative candidates – a total of \$200,000 – in the Nov. 7, 2000, general election.

The Fair Political Practices Commission reached a \$25,000 civil settlement with **Stephen Bing**, a Los Angeles screenwriter-producer and major political contributor, for failing to disclose a \$500,000 late contribution made to oppose the passage of Proposition 28 in the March 7, 2000, primary election. In the settlement, Bing agreed to pay \$25,000 in civil penalties to the state general fund for failing to timely file a late contribution report disclosing a \$500,000 late contribution, as required under the Political Reform Act. A civil complaint and stipulation for entry of judgment were filed in Sacramento Superior Court on June 19, 2002. A final judgment, based on the stipulation signed by the FPPC and Bing, was approved by Superior Court Judge Joe S. Gray June 24, 2002.



A summary of enforcement cases and copies of many enforcement stipulations and civil settlements/orders are available on our web site,

<http://www.fppc.ca.gov>

Just click on “Enforcement” on the blue sidebar on the home page, and then click on “Summary of Past Enforcement Cases A-Z.” Or just click here:

<http://www.fppc.ca.gov/index.html?id=224>

August Seminars Provide Valuable Feedback From Candidates

By Hal Dasinger
FPPC political reform consultant

Political reform consultants from the Fair Political Practices Commission's Technical Assistance Division conducted 12 candidate/treasurer seminars during the month of August 2002. These seminars provided an overview of campaign finance laws and the forms used to report campaign activity.

More than 700 local candidates and treasurers attended seminars held across the state from Windsor to El Cajon. Following each seminar, participants had the opportunity to evaluate the presentation and to provide information about their campaigns by filling out short surveys. Collecting and comparing these surveys affords FPPC staff greater perspective on the issues confronted by the officials, candidates and treasurers who attended these sessions.

The collected answers show that the audience for these sessions included political hopefuls ranging from novices to experienced incumbents. While the majority of participants were launching their first forays into electoral politics, many—in fact, well over one-third—were veterans of prior campaigns. Of those responding, most revealed an ongoing interest in public service; approximately 60 percent reported that they planned to keep their committees open if elected.

The questionnaires also elicited a wide range of campaign funding expectations. When asked about their projected campaign budgets, just over half those who answered the question wrote that they expected to raise and spend less than \$10,000, including contributions by the candidate. Nearly five percent put that number at more than \$50,000, while only half as many predicted that their campaigns would take in and spend less than \$1,000. While financial forecasts



Kevin Moen, a political reform consultant II at the Fair Political Practices Commission, answers questions at a seminar in West Sacramento for candidates and treasurers. Teri Rindahl, an FPPC political reform consultant I, also spoke during the evening event.

varied widely, the use of volunteers as treasurers was nearly unanimous; fewer than six percent of those responding reported a committee with a paid treasurer.

Survey responses about campaign techniques and strategy highlight the enduring appeal of traditional methods and the growing popularity of new technologies. Many participants indicated that they planned to incorporate phone banks, slate mailers, raffles, auctions, and television or radio advertising. The most frequently checked campaign tool was mass mailing, followed closely by home or office fundraisers. These perennial favorites were complemented by responses that continue a growing trend in favor of electronic communication in politics: nearly one-third of those asked said they would campaign using email and web sites.

FPPC
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Clerk's Corner

By Trish Mayer
FPPC political reform consultant



The November election campaigns are in full swing! Below are some reminders to help you comply with the law...

You Must Provide Public Access to Filed Campaign Statements

- All campaign statements are public documents.
- Statements must be available for public inspection, during regular business hours, no later than the second business day after they are received.
- Copies must be provided for no more than 10 cents per page.
- For statements five or more years old, a retrieval fee of up to \$5.00 per request may be charged.
- No conditions for inspection or reproduction may be imposed.
- No identification or information may be required of persons seeking access to statements.
- Statements for city candidates and officeholders must be filed with the city clerk even if the county conducts the election.

What About Non-Filers?

Filing officers must promptly notify all persons and known committees that have failed to file a statement required by law. If a candidate has filed a Form 501 or a committee has filed a Form 410 with you, you should expect some type of campaign disclosure statement filed by the candidate or committee.

If, after reviewing the campaign log, you become aware that a candidate, officeholder, or committee has failed to file, you must notify the filer.

Keep a record of any calls made and copies of any notices sent. Contact the Technical Assistance Division for sample letters.

At least two attempts should be made in writing to obtain a missing filing before referring a non-filer to the enforcement agency.

Reviewing Campaign Statements – A Refresher

Filing officers must review *all original* campaign statements filed with them as soon as possible to determine if they contain all of the information required by the Act. If an amendment is necessary, notify the filer in a timely manner. The specific requirements are set out in Regulation 18110 (see our web site regulation page at <http://www.fppc.ca.gov/index.html?id=52>).

When reviewing campaign statements you are *not* required to seek or obtain information to verify entries, examine previously filed statements, or check mathematical calculations.

The following is a list of some of the most common errors to look for when reviewing campaign statements:

Cover Page

- Incorrect period covered
- Incomplete verification
- Verification is a photocopy or not signed in ink

Summary Page

- Totals from the summary sections of the schedules are incorrectly carried forward
- Failure to report zeros in Column A when there has been no activity to report on a particular schedule and the filer has failed to attach the schedule
- Failure to complete Column B during a particular reporting period

Schedules

- Dates reported in the "Date Received" column do not coincide with the period covered by the statement.
- Itemized contributions and expenditures do not include complete addresses.
- Itemized contributions from individuals do not include occupation and employer information.

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tion. For missing addresses and missing occupation and employer information (on contributions from individuals), please be aware that the law now requires candidates and committees to *refund* a contribution to the contributor if this missing information is not obtained within 60 days of the receipt of the contribution. If the candidate or committee does obtain the information, then the statement must be amended within 70 days of the closing date of the statement in which the contribution was disclosed. For example, for any missing information on a semi-annual statement that covers activity through June 30th, an amendment must be filed by September 8th (70 days from the closing date of the statement).

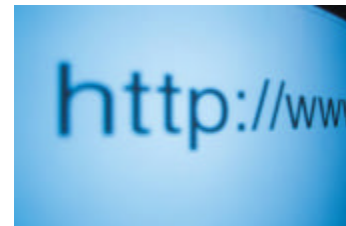
- Failure to report vendors receiving payments of \$100 or more from a credit card company or \$500 or more from a campaign management firm
- Failure to report codes or descriptions of itemized payments and accrued expenses

Changes should not be made to a statement after it has been filed. Another form must be used to amend.

To amend a previously filed campaign statement, the filer must file another form (e.g., a candidate amending a Form 460 will file another Form 460 marking the amendment box and providing the amended information). Any amendment that changes monetary amounts (receipts, expenditures, cash-on-hand, etc.) should include a revised Summary Page.

For any questions regarding your filing officer duties, please contact the Technical Assistance Division's toll-free advice line at **1-866-ASK-FPPC**.

Web Site Update



For the convenience of filers, the FPPC's web site, <http://www.fppc.ca.gov>, has added new interactive versions of several commonly used campaign forms.

Forms 410, 425, 450, 460, 461, 465, 470, 495, 496, 497, and 501 are now available as interactive documents on the web site's forms page, <http://www.fppc.ca.gov/index.html?id=234>.

The forms and instructions are in Adobe Acrobat .pdf format. You can download the free Adobe Acrobat Reader from the Adobe Systems Acrobat download site at:

<http://www.adobe.com/products/acrobat/readstep.html>.

You can also get information about and download tools for the visually impaired, including an accessible .pdf reader, from the Adobe Systems Accessibility Tools web site.

If you experience difficulties in printing any of these forms, please refer to technical document on printing from Adobe at:

<http://www.adobe.com/support/techdocs/150d6.htm>.

While you can fill out and print these forms with a computer, they still must be printed out and mailed or otherwise delivered to your filing officer.

Reminder: Filing Schedules Posted

The 2002 filing schedules are posted on our web site at:

<http://www.fppc.ca.gov/index.html?id=222>.

To access the schedules from our home page, go to the blue sidebar on the left and click on Candidates and Committees. Click on "filing deadlines" and print the appropriate schedule. It will be necessary to print the schedules in "landscape" format. When you print the schedule, the blue sidebar will print out as well. If you prefer a calendar without the sidebar, contact the Technical Assistance Division and an election schedule will be faxed to you. Also note that each schedule has a question-and-answer section addressing some of the more common questions that are asked.

Litigation Report



Pending litigation report presented to the Commission at its September 5, 2002, meeting:

California ProLife Council, Inc. v. Karen Getman et al.

This case involves a challenge to the Act's reporting requirements regarding express ballot measure advocacy. On October 24, 2000, the district court dismissed certain counts for standing and/or failure to state a claim. On January 22, 2002, the court denied a motion for summary judgment filed by plaintiff, and granted the FPPC's motion, after concluding that "the constitutional case or controversy requirement of ripeness cannot be satisfied." This resolved all claims in favor of the FPPC. The Court entered judgment accordingly on January 22, 2002, and on February 20, 2002, plaintiff filed a Notice of Appeal with the Ninth Circuit Court of Appeal. California ProLife Council, Inc. filed its opening brief on June 10, 2002. The FPPC and the Attorney General filed Answering Briefs on July 25, 2002. A hearing date has not yet been set.

Danny L. Gamel et al. v. FPPC

In September 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of §§ 84300 – 84302. Plaintiffs contested this decision by Writ of Mandate in the Fresno County Superior Court. On March 21, 2002, the Court upheld the Commission's determination that Dan Gamel and Rudy Olmos violated the Act, but vacated the finding against Gamel Inc. The penalties assessed against Dan Gamel were affirmed but the Court remanded the case to the Commission for reconsideration of the penalty assessed against Rudy Olmos. The plaintiffs have since filed a notice of appeal of the Superior Court's decision regarding the

finances assessed against Mr. Gamel and the findings against Mr. Olmos. Appellants have filed their opening brief. The Commission's Opposition is due September 5 and appellants' Reply soon thereafter. Any hearing on the matter will be scheduled after briefing has been completed.

Levine et al. v. FPPC

On January 22, 2002, four publishers of "slate mail" – Larry Levine, Tom Kaptain, Scott Hart and the California Republican Assembly – filed suit in Federal District Court alleging that the Act's slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34. The status conference originally scheduled for April 29 was continued to June 10, 2002, to coincide with the hearing on plaintiffs' motion for preliminary injunction before Judge Lawrence K. Karlton, and both matters were continued again to July 29, 2002. At that hearing, the Court declined to hold a Status Conference on the ground that its ruling on the preliminary injunction might affect pretrial scheduling. The Court then observed that it might be required to abstain from the case altogether under recent Supreme Court precedent, and directed that the parties file briefs on that question by August 8, 2002. The briefs were timely submitted, and the Court is expected to issue its ruling in the near future. *[Note: the court acted on Sept. 20. Details will be provided in the next issue of the Bulletin.]*

Fair Political Practices Commission v. Californians Against Corruption et al

This case is now pending before the Third District Court of Appeal. The case stems from the FPPC's 1995 administrative prosecution of a recall committee that failed to properly itemize its contributors, in violation of section 84211 of the Political Reform Act. In November 1995, the FPPC issued a default decision and order against the defendants, imposing an administrative penalty of \$808,000. In January 1996, the

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FPPC filed a collection action in the Sacramento Superior Court to reduce the penalty to a civil judgment. The defendants responded by filing a cross-complaint/petition for writ of mandate in the Superior Court, contesting the default decision. In July 2000, the Superior Court dismissed the defendants' cross-complaint/petition for writ of mandate for failure to prosecute. In March 2001, the Superior Court granted the FPPC's motion for summary judgment in the collection action, and ordered defendants to pay the \$808,000 penalty plus interest. The defendants then filed this appeal in April 2001 and filed their opening brief in October 2001. The FPPC filed its response brief in April, and defendants have filed their reply. No date has yet been set for hearing.

Legislative Update



The Legislature adjourned its two-year session August 31 and the Governor has signed the 2002-2003 state budget. A listing of bills amending the Political Reform Act and signed by the Governor will be included in the next issue of the *FPPC Bulletin*.

A summary report of bills pending as of August 23 was presented to the Commission at its September 5, 2002, monthly meeting. A scanned version is available on the FPPC web site at:

<http://www.fppc.ca.gov/Agendas/September02/legRep.pdf>.

Or, look for the link on the September 5 Commission meeting agenda page.

Lobbyist Ethics Courses Scheduled

The Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics have scheduled a new round of lobbyists' ethics courses in Sacramento and Los Angeles.

Ethics Course Dates

Sacramento Convention Center

- 1) Wed., Nov. 13, 2002, 10 a.m.-Noon
- 2) Wed., Nov. 13, 2002, 1:30-3:30 p.m.
- 3) Thurs., Jan 16, 2003, 1:30-3:30 p.m.
- 4) Friday, Feb. 7, 2003, 1:30-3:30 p.m.
- 5) Thurs., Apr. 24, 2003, 1:30-3:30 p.m.

In Los Angeles

- 6) Thurs., May 15, 2003, 1:30-3:30 p.m.

Government Code section 86103 requires lobbyists to complete this course as a condition of registration to lobby in the State of California. Any registered lobbyist (new or renewing) who has not completed his or her ethics course requirement for the 2001-2002 legislative session and/or the 2003-2004 legislative session should attend one of these courses.

Any lobbyist who does not complete his or her ethics course requirement and fails to comply with the related filing deadlines is prohibited from acting as a lobbyist in California and may be subject to criminal penalties and substantial fines. The ethics committees plan to mail sign-up forms to each lobbyist of record in September 2002.

Contact Jeanie Myers at the Senate Committee on Legislative Ethics at **(916) 324-6929** for further information.

Please note: The ethics committees make every effort to provide notice of ethics course dates using information lobbyists submit to the Secretary of State's Political Reform Division. However, it is the responsibility of each lobbyist to obtain course information, to sign up for and attend one of these courses, as required.

As space is limited at each course, a completed sign-up form and the \$25 course fee must be received five days in advance of the course. Spaces are filled in the order that sign-up forms are received in the ethics committee office. You will be contacted if the course date you sign up for is full.

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

Campaign

Kellie Bewley
Amalgamated Transit Union
Dated June 25, 2002

Our File Number: A-02-126

This letter outlines section 85301 campaign contribution limits, section 85302 contribution limitations for small contributor committees, section 85203 criteria for small contributor committees, the definition of "committee" in section 82013, and notes that the Act's contribution limits do not apply to elections for local office.

Keith S. Richman, M.D.
California Assembly
Dated June 21, 2002

Our File Number: I-02-143

An Assembly member may transfer startup funds

from his Assembly committee to his new municipal committee. If elected mayor of the proposed new city, the conflict-of-interest provisions of section 87100 would apply to him. Under section 85702, a lobbyist who is registered to lobby the Legislature is prohibited from making a contribution from his or her personal funds to the Assembly member's state committee or his new municipal committee.

Helen S. Kawagoe, MMC
City of Carson

Dated June 21, 2002

Our File Number: A-02-109

The letter addresses the one-bank account rule, when campaign funds may be used for legal defense, and the inapplicability of section 85304 to local candidates.

LeeAnn Pelham, Executive Director
City of Los Angeles Ethics Commission
Dated June 3, 2002

Our File Number: I-02-137

The letter addresses state law issues contained in a fact sheet prepared by the Los Angeles City Ethics Commission in connection with the San Fernando Valley secession election. It also reviews applicable state law, and states that under section 84215(e), the Los Angeles City Ethics Commission is the filing officer for campaign statements filed in the secession election.

Kristin Parisi
Citizens for the Preservation of Glendora
Dated May 30, 2002

Our File Number: A-02-112

A general purpose recipient committee that receives payments from candidates and others to include endorsements in its newsletter may qualify as a slate mailer organization.

Dan Lee
City of Martinez
Dated May 29, 2002
Our File Number: A-02-116

Contributions received and expenditures made by an incumbent council member for the purpose of mailing a questionnaire to constituents must be reported on the council member's campaign statements. If another individual mails the ques-

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tionnaire at the council member's behest, the council member must disclose payments of \$5,000 or more made by the individual.

Richard L. Poland
Dated May 21, 2002
Our File Number: A-02-044

Certain advertisements placed in the yellow pages and a newspaper are campaign expenses, reaffirming the conclusion reached in the Poland Advice Letter, No. A-01-123. Advice is given to the filer on how to report these expenditures.

Jan Wasson
Wesson for Assembly
Dated May 17, 2002
Our File Number: I-02-048

Discussion of section 85305 of the Act, under which a candidate for elective state office and any committees controlled by that candidate are prohibited from making any contribution to any other candidate for elective state office in excess of the limits set forth in section 85301(a) of \$3,000 per election.

Paul Koretz, Assemblyman
California Legislature
Dated May 14, 2002
Our File Number: I-02-085

Provides general guidelines regarding the application of the Political Reform Act ("PRA") to secession issues. Activity that is within the parameters of the Cortese-Knox Act is outside the PRA, therefore, we do not advise on these laws.

The Honorable Dario Frommer
California Assembly
Dated May 10, 2002
Our File Number: A-02-117

Discusses cosponsored event rules as applied to a community block party in Burbank, California.

David T. Vahedi
California Democratic Council
Dated May 10, 2002
Our File Number: A-02-062

An organization chartered by a political party, but which is not one of the persons exempted from the definition of "slate mailer organization" under § 82048.5(b) will not be exempt from the disclosure requirements of §§ 84305.5 and 84305.6 if the or-

ganization satisfies the statutory criteria for classification as a "slate mail organization."

Lori Jacobs
San Diego Board of Realtors
Dated May 3, 2002
Our File Number: A-02-090

The San Diego Board of Realtors may receive contributions earmarked for its sponsored political action committee into its general fund and then transfer those funds into the PAC bank account as long as all record keeping requirements are met.

Sharon L. Dawson, City Clerk
City of Santa Clarita
Dated May 2, 2002
Our File Number: I-02-055

This letter discusses the presumption of section 85308, that a contribution from a minor is actually a contribution from the minor's parents.

Conflict of Interest

Stacey Simon
Mono County
Dated June 27, 2002
Our File Number: I-02-163

A non-profit entity is not a "public official" under the Act and is not, therefore, subject to the Act's conflict-of-interest provisions.

Steven P. Rudolph, City Attorney
City of Folsom
Dated June 27, 2002
Our File Number: A-02-145

A city manager whose residence is more than 500 feet beyond property to be rezoned for high density development, whose spouse is employed by a non-profit rental housing association, does not have a conflict of interest in rezoning decisions.

Thomas F. Nixon, City Attorney
Placentia City Council
Dated June 26, 2002
Our File Number: A-02-081

A city council member who is a local real estate broker and investor in a business owning real property within 500 feet of a redevelopment area seeks to vote on proposals to sell property located in the redevelopment area, purchase property adjacent to

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the redevelopment area, and improve a commercial parcel located in the redevelopment area. Decisions to buy and sell property are of the type to affect the redevelopment area as a whole. The council member has a disqualifying conflict of interest by virtue of his investment in a business entity owning real property within 500 feet of the redevelopment area boundaries. The decision concerning the commercial parcel is not of the same type and affects only that discrete parcel within the redevelopment area. Since this parcel is located more than 500 feet from the council member's investment property, there is no disqualifying conflict of interest and he may vote on improvements to that parcel.

Anne A. Lee
City of Monterey Park
Dated June 25, 2002
Our File Number: I-02-160

A follow-up advice letter to Moser Advice Letter No. I-02-114. Reiterates the effect of appraisals on the evaluation of materiality.

Linda L. Daube
City of Pittsburg
Dated June 25, 2002
Our File Number: I-02-161

An employee of a local developer referred the mayor to a local businessman whose business became the source of a real estate loan to the mayor. In the absence of a referral fee or business affiliation between the local developer and the lending business, the developer is not a source of income to the mayor, and does not number among his economic interests. The mayor does not have a conflict of interest and may vote on projects proposed by the developer.

Cindie K. McMahon
City of Carlsbad
Dated June 25, 2002
Our File Number: A-02-150

A current member of a city's parks and recreation commission wished to sell life insurance policies to the same city. As long as the member does not act in his official capacity when introducing and/or selling the life insurance policies, there is no conflict of interest under the Political Reform Act.

Kathleen Walsh, General Counsel
Air Resources Board
Dated June 25, 2002

Our File Number: I-02-158

A general discussion of conflict-of-interest laws as applied to a member of the Agricultural Advisory Committee of the Air Resources Board.

Lynn Tracy Nerland, Asst. City Attorney
City of Emeryville
Dated June 19, 2002

Our File Number: I-02-059

In applying regulation 18707.1(b)(1)(B), two individuals who jointly own a home that is their domicile or principal place of residence count as two "homeowners."

George Maurer, Councilmember
City of Sierra Madre
Dated June 14, 2002
Our File Number: A-02-131

A city council member does not have a conflict of interest in a decision regarding the Sierra Madre Conservancy as a result of being a former director on the board of the conservancy.

Alfred G. Vazquez
Lassen Municipal Utility District
Dated June 13, 2002
Our File Number: A-02-086

It is not reasonably foreseeable that a public official's particular economic interest will be materially affected by a decision to pay a monthly agency bill.

Susan A. Shaheen, Ph.D.
Partners for Advanced Transit & Highways
Dated June 10, 2002
Our File Number: A-02-148

A clarification was sought that prior advice regarding a potential grant application by the University of California did not bar a UC employee from assisting in preparing the application, when the grantor is another state agency to which the UC employee is detailed on a part-time basis. The employee was advised that no conflict of interest exists unless the employee were to seek funds in her individual capacity as a private person. No conflict exists when applying on behalf of the University of California for grant monies.

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Gregory V. Moser
City of Monterey Park
Dated June 6, 2002
Our File Number: I-02-114

A city council member has a conflict of interest in a decision to reconsider a contract with a towing company that has its site of operation within 500 feet of the council member's property. The effect of appraisals is discussed.

Patrick C. Wilson, Asst. City Attorney
City of Santa Rosa
Dated June 3, 2002
Our File Number: I-02-093

A planning commissioner does not have an economic interest in the clients of his employer when he has neither ownership interest nor investment in that company. The elements to apply the "reasonably foreseeable" standard in the conflict-of-interest analysis is outlined.

Carl Washington, Assemblyman
California Legislature
Dated May 30, 2002
Our File Number: A-02-140

Section 87407's prohibition on making a governmental decision that will directly affect an entity with which a state officer or employee has an arrangement concerning prospective employment does not apply to an Assemblyman whose prospective employer is the Compton Unified School District. Regulation 18747(d)(3) specifically states that the prohibition does not apply if the prospective employer is a state, local or federal governmental agency. However, the one year lobbying ban of section 87406(b) does apply.

John Foster
City of Fairfield
Dated May 24, 2002
Our File Number: A-02-125

A member of the airport land use commission is advised that holding two public offices does not, per se, create a conflict of interest under the Act. It is when a governmental decision has a reasonably foreseeable material financial effect on an official's economic interest that a conflict of interest may disqualify an official from involvement in that decision. The doctrine of incompatible offices is outside the

scope of the Act and the Commission offers no advice thereon.

Linda W. Dixon
City of Costa Mesa
Dated May 23, 2002
Our File Number: I-02-098

Holding two positions as mayor of the City of Costa Mesa and as a member of the Orange County Fairgrounds Board of Directors are not economic interests which could be affected by decisions of either agency. The question concerning the doctrine of incompatible public offices should be directed to the Office of the Attorney General.

Maria Clark
City of Dorris
Dated May 23, 2002
Our File Number: A-02-113

An elected public official is prohibited from accepting a loan in excess of \$250 from a fellow public official who holds office with her agency (§ 87460 (a)).

David M. Swerdlin
San Juan Capistrano City Council
Dated May 20, 2002
Our File Number: A-02-119

A city council member was advised that he may vote on a proposed real estate development when the representative of the developer is a former independent contractor consultant retained by the council member in his private employment. Additionally, the representative's referral of business to the council member did not make the representative a source of income to the council member.

Susan A. Shaheen, Ph.D.
Partners for Advanced Transit & Highways
Dated May 20, 2002
Our File Number: A-02-070

A University of California research scientist who also advises the CalTrans senior staff on transportation-related programs sought advice regarding potential conflicts of interest. Since the scientist's sole potential economic interest is derived from her state salary, which qualifies for the government salary exemption from "income" under the Act, and there is no effect on her personal finances, the scientist does not have a conflict of interest disqualify-

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ing her from participating in any of her job assignments.

Sampson P. Bowers
St. Helena City Council

Dated May 20, 2002

Our File Number: A-02-089

A city council member does not have a disqualifying conflict of interest and may vote on flood control measures. The council member's month-to-month lease of his dwelling unit (which is situated in the flood zone) does not comprise an interest in real property. In addition, the economic value of flood control benefits to individual homeowners who are sources of income to him is not sufficient to constitute a material financial effect. In any event, the "public generally" exception would apply to the effect on individual homeowners located in the flood zone.

Heather Criss
City of Dorris
Dated May 20, 2002

Our File Number: A-02-111

The city administrator sought advice as to whether she has a conflict of interest disqualifying her from co-signing city checks made payable to her spouse's employer. Since the city administrator exercises no discretion or independent judgment as to whether the checks are issued, the amount and the timing of the checks, signing them is a mechanical exercise in a clerical role, not making, participating in making, or influencing a governmental decision. She has no conflict of interest barring her from signing city checks made payable to her spouse's employer.

Daniel S. Hentschke
San Diego County Water Authority
Dated May 17, 2002

Our File Number: A-02-019

Participation in the appointment process by a public official constitutes participation in a governmental decision. The official may participate in such a decision provided certain factors are met.

Domingo Ottolia
City of Torrance
Dated May 15, 2002
Our File Number: I-02-099

A general discussion of the exception to what constitutes attempting to influence a governmental decision contained in regulation 18702.4(b)(4). The exception allows public officials who are architects and engineers to prepare technical documents for a client in connection with a proceeding that is before the official's agency.

Carla Condon, Vice Mayor
Corte Madera Town Council
Dated May 15, 2002

Our File Number: I-02-035

A member of the Corte Madera Town Council may participate in a decision to adopt a proposed housing element only if the reasonably foreseeable material financial effect of the decision on the member's principal residence is indistinguishable from its effect on the public generally.

Daniel J. McHugh, City Attorney
City of Redlands
Dated May 14, 2002

Our File Number: A-02-021

Council members of the City of Redlands will have a conflict of interest in a decision to amend a sign ordinance only if it is reasonably foreseeable that one of his/her respective economic interests will be materially affected.

Michele R. Vadon
City of Dana Point
Dated May 10, 2002
Our File Number: A-02-105

A public official who serves on a decision-making body of two local public agencies does not have a conflict of interest in decisions relating to a dispute between the two agencies, merely because he serves both agencies.

Marilyn Ramos
Aptos/La Selva Fire Protection District Bd.
Dated May 7, 2002
Our File Number: A-02-108

The conflict-of-interest provisions of the Act do not require an official to resign from her position on a public body. Section 87100 only requires disqualification when a decision will directly or indirectly have a material financial effect on the official's economic interests. These rules are applied to a workers' compensation claim.

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Nathaniel Bates
Richmond City Council

Dated May 2, 2002

Our File Number: A-02-027

No provision of the Act prohibits a public official from accepting particular employment. However, accepting employment will create an economic interest in the employer.

Conflict-of-Interest Code

Kathryn Doi
California Technology, Trade and Commerce Agency

Dated June 25, 2002

Our File Number: A-02-025

A state advisory commission is advised on whether it must adopt a conflict of interest code. The Siegel factors to determine whether the advisory commission is a state agency are also discussed.

Mike Stoker
Deputy Secretary of State
Dated June 7, 2002
Our File Number: A-02-130

Members of a voting modernization board will be required to file statements of economic interests once a conflict of interest code has been approved for the board.

Mass Mailing

Leslie Cook, CMC
City of Santa Cruz
Dated June 19, 2002
Our File Number: I-02-123

The current mass mailing statute and regulations only apply to tangible items and not the Internet. Newsletters affiliated with the elected officer, who act in "cooperation, consultation, coordination, or concert" with the creators of the newsletter, are subject to the mass mailing rules.

Gift Limits

Kathleen Angel, Legislative Assistant
California Legislature

May 23, 2002

Our File Number: A-02-127

The award of \$2,500 and other monetary and non-monetary benefits to an Assembly member by the Good Housekeeping Award for Women in Government qualifies as an award in a bona fide competition and is not considered a gift. However, it should be reported as income.

Revolving Door

Gregory S. Schuett
California Department of Forestry & Fire Protection

Dated June 27, 2002

Our File Number: I-02-144

General guidance regarding post-governmental employment provisions of the Political Reform Act.

Steven F. Scholl
California Coastal Commission
Dated June 25, 2002

Our File Number: I-02-083

The deputy director of the California Coastal Commission sought advice concerning post-employment restrictions in connection with the intent to engage in private consulting for local government agency clients concerning local coastal programs and amendments thereto. An official is not barred by the one-year ban from advising clients, provided that the official is not identified in any client communications, oral or written, submitted to the California Coastal Commission. The official may have no oral or written communication with the California Coastal Commission for one year, except to solicit information in the public record. The official is permanently barred from representing clients in the proceedings in which he personally and substantially participated as a state official, including matters conducted by employees under his direct supervision.

Jacquelyn Paige
California Health Policy & Data Advisory Commission

Dated June 5, 2002

Our File Number: I-02-122

(Continued on page 21)

(Continued from page 20)

A general discussion of how post-governmental restrictions will apply once a state employee leaves office. Influencing a prospective employer is discussed and checking the agency's statement of incompatible activities is also advised.

Ronald West

Department of Transportation

Dated May 1, 2002

Our File Number: I-02-077

General guidance regarding post-governmental employment provisions of the Political Reform Act.

Section 84308

Harriet A. Steiner

Sacramento Metropolitan Cable Television Commission

Dated June 5, 2002

Our File Number: A-02-095

Section 84308 in this letter applies to the cable

commission's consideration of the proposed change in control of the cable franchise brought about by the merger of AT&T and Comcast. Agents under section 84308, aggregation of contributions by the party and an agent, and when commissioners have knowledge of a proceeding and a contribution are also discussed.

Miscellaneous

Marcia H. Armstrong

Siskiyou County Board of Supervisors

Dated June 26, 2002

Our File Number: I-02-165

The Fair Political Practices Commission interprets and enforces the provisions of the Political Reform Act. A question concerning an individual's attendance as "supervisor-elect" at social, community and civic events before the supervisor's term begins, is a question that should be directed to the county counsel.

Political Reform Act Available on Web and CD-ROM

The Political Reform Act of 1974 (updated to January 1, 2002) is available on the FPPC web site at <http://www.fppc.ca.gov/index.html?id=51>, and on computer CD-ROM. Downloading the Act from the web is free. The CD is available for \$5 per copy, although there is no charge for government agencies. The CD includes Adobe Acrobat (.pdf) and Microsoft Word formats. Please send your check made payable to the "State of California" and the order form below to:

Fair Political Practices Commission

Attention: Jon Matthews

Public Education Unit

428 J Street, Suite 620

Sacramento, CA 95814

Name: _____

Agency/Firm: _____

Address: _____

City: _____

State: _____ Zip Code: _____

Number of CDs requested: _____